

PART I - THE SCHEDULE

**SECTION H
SPECIAL CONTRACT REQUIREMENTS
FLUOR HANFORD, INC.**

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H.1 SEPARATE CORPORATE ENTITY

The work performed by the Contractor under this contract shall be conducted by a separate corporate entity from its parent company. The separate corporate entity must be set up solely to perform this contract and shall be totally responsible for all contract activities.

H.2 RESERVED

H.3 USE OF CORPORATE AFFILIATES

- A. The Contractor and the Contractor's subcontractors may obtain direct support from their affiliates to meet technical and staffing requirements consistent with Make-or-Buy evaluation. Prior to ordering any support from an affiliate, the Contractor shall document the basis for selecting the affiliate and how the evaluation process was consistent with the requirements of the Clauses entitled "Make-or-Buy Plan and/or Program/Subcontracts Consent and Contract Clause Flow Down Requirements." For purposes related to the Make-or-Buy decision, non-competitive awards to affiliates are considered a "make" and competitive awards to affiliates, a "buy." In addition, the Contractor or subcontractor will ensure that prior to award, each transaction with an affiliate will be evaluated for potential conflicts of interest and adjudicated in accordance with Clause, "Organizational Conflicts of Interest."
- B. Materials, supplies, equipment and services obtained from a Contractor or subcontractor affiliate on a non-competitive basis will be at cost without additional fee or profit, or cost of money. Fee or profit paid to an affiliate through a non-competitive agreement will be deducted from the Contractor's negotiated fees earned for the Fiscal Year.
- C. For competitive procurements, Subcontracts with affiliates require advance approval in writing from the Contracting Officer. Such subcontracts must be:
 - (1) Legally enforceable;
 - (2) Use the same terms and conditions that would apply to a third party supplier; and,
 - (3) Result in an agreement based on price competition as defined by FAR 15.403-1(c), and for cost-type awards be supported by a cost realism analysis.
- D. Contractor affiliates providing materials, supplies, equipment, and services shall perform such work in accordance with the applicable terms and conditions of this Contract.

H.4 TRI-PARTY AGREEMENT

The DOE, the U.S. Environmental Protection Agency Region 10 (EPA), and the Washington State Department of Ecology (Ecology) have entered into the Hanford Federal Facility Agreement and Consent Order, referred to as the Tri-Party Agreement (TPA) to ensure compliance with the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA). The TPA sets forth certain requirements and milestones for cleanup activities at the Hanford Site. The Contractor agrees to plan and perform the work under this contract in accordance with DOE direction concerning implementation of the TPA and achievement of current and future milestones in the TPA.

H.5 RESPONSIBLE CORPORATE OFFICIAL

The Government may contact, as necessary, the single responsible corporate official identified below, who is at a level above the Contractor President and Chief Executive Officer who is accountable for the performance of the Contractor. Should the responsible corporate official change during the period of the contract, the Contractor shall promptly notify the Government of the change in the individual to contact.

Name: Ron Hanson

Position: President, DOE Programs

Company: Fluor Federal Services

H.6 THIRD PARTIES

Nothing contained in this Contract or its amendments shall be construed to grant, vest, or create any rights in any person not a party to this Contract. This provision is not intended to limit or impair the rights which any person may have under applicable Federal Statutes.

H.7 GUARANTEE OF PERFORMANCE

The Contractor or the Contractor's parent organization(s) has (have) provided a Performance Guarantee Agreement in a manner and form acceptable to the Contracting Officer assuring the performance, duties, and responsibilities of the Contractor, including repayment of unearned provisional fee, will be satisfactorily fulfilled. The Performance Guarantee Agreement dated December 21, 2000 is incorporated herein by reference and made part of this Contract.

H.8 ENVIRONMENTAL RESPONSIBILITY

A. General

Contractor is required to comply with all environmental laws, regulations, and procedures applicable to the work being performed under this Contract. This includes, but is not limited to, compliance with applicable Federal, State and local laws and regulations, interagency agreements such as the Hanford Federal Facility Agreement and Consent Decree [aka Tri-Party Agreement (TPA)], consent orders, consent decrees, and settlement agreements between DOE and Federal and State regulatory agencies.

B. Environmental Permits

This clause addresses the following permit scenarios:

- (1) Where the Contractor is the sole permittee; (2) where the Contractor and DOE are joint permittees; (3) where multiple Contractors are permittees.
- (2) Contractor as Sole Permittee. To the extent permitted by law and subject to other applicable provisions of the contract that impose responsibilities on DOE, and provisions of law that impose responsibilities on DOE or third parties, the Contractor shall be responsible for obtaining in its own name, shall sign, and shall be solely responsible for compliance with all permits, authorizations and approvals from Federal, State, and local regulatory agencies which are necessary for the performance of the work required of the Contractor under this Contract. Under this permit scenario, that Contractor shall make no commitments or set precedents that are detrimental to DOE or other Contractors. Contractor shall coordinate its permitting activities with DOE, and with other Hanford Site Contractors which may be affected by the permit or precedent established therein, prior to taking the permit action.
- (3) Contractor and DOE as Joint Permittees. Where appropriate, required by law, or required by applicable regulatory agencies, DOE shall sign permits as owner or as owner/operator with Contractor as operator or co-operator, respectively. DOE will co-sign Hazardous Waste permit applications as owner/operator where required by applicable law. In this scenario, the Contractor must coordinate its actions with DOE. DOE is responsible for timely notification to the Contractor of any issues or changes in the regulatory environment that impact or may impact Contractor implementation of any permit requirement. The Contractor is responsible for timely notification to DOE of any issues or changes in the regulatory environment that impact or may impact Contractor implementation of any permit requirement. Notification need not be in writing.

- (4) Multiple Contractors as Permittees. Where appropriate, in situations where multiple Contractors are operators or co-operators of operations requiring environmental permits, DOE shall sign such permits as owner or co-operator and affected Contractors shall sign as operators, or co-operators. In this scenario, the Contractor must coordinate as appropriate with DOE and other Contractors affected by the permit.

C. Permit Applications

The Contractor shall provide to DOE for review and comment in draft form any permit applications and other regulatory materials necessary to be submitted to regulatory agencies for the purposes of obtaining a permit. In the event the permit application is required to be co-signed, submitted by DOE, or is related to a permit in which DOE is a permittee, the Contractor shall provide the application for review and comment. Whenever reasonably possible all such materials shall be provided to DOE initially not later than 90 days prior to the date they are to be submitted to the regulatory agency. Contractor shall normally provide final regulatory documents to DOE at least 30 days prior to the date of submittal to the regulatory agencies for DOE's final review and signature or concurrence which shall be performed by DOE in a prompt manner. Special circumstances may require permits to be submitted in a shorter time frame. The Contractor may submit for DOE's consideration, requests for alternate review, comment, or signature, schedules for environmental permit applications or other regulatory materials covered by this Clause. Any such requests shall be submitted 30 days before such material would ordinarily be required to be provided to DOE. Any such schedule revision shall be effective only upon approval from the Contracting Officer.

D. Financial Responsibility

DOE agrees that if bonds, insurance, or administrative fees are required as a condition for permits obtained by Contractor under this Contract, such costs shall be allowable. In the event such costs are determined by DOE to be excessive or unreasonable, DOE shall provide the regulatory agency with an acceptable form of financial responsibility. Under no circumstances shall the Contractor or its parent be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.

E. Copies, Technical Information

The Contractor shall provide DOE copies of all environmental permits, authorizations, and regulatory approvals issued to the Contractor by the regulatory agencies. DOE shall, upon request, make available to the Contractor access to copies of all environmental permits, authorizations, and approvals issued by the regulatory agencies to DOE that the Contractor may need to comply with applicable law. The Contractor and DOE shall provide to the other copies of all documentation, such as, letters, reports, or other such

materials transmitted either to or from regulatory agencies relating to the contract work. The Contractor and DOE shall maintain all necessary technical information required to support applications for revision of DOE or other Hanford Site Contractor environmental permits when such applications or revisions are related to Contractor's operations. Upon request, Contractor or DOE shall provide to the other access to all necessary and available technical information required to support applications for or revisions to permits or permit applications. The Contractor shall provide to DOE a certification statement relating to such technical information in the form required by the following paragraph.

F. Certifications

The Contractor shall provide a written certification statement attesting that information DOE is requested to sign was prepared in accordance with applicable requirements. The Contractor shall include the following certification statement in the submittal of such materials to DOE:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification statement shall be signed by the individual authorized to sign such certification statements submitted to Federal or state regulatory agencies under the applicable regulatory program.

G. Fines, Penalties, Allowable Costs

The Contractor shall accept, in its own name, service of proposed notices, or notices of, correction, penalty, fine, violation, administrative orders, citation, or notice of alleged violations, (e.g., NOC, NOP, NOF, PNOV, NOV, NOAV) and any similar type notices issued by Federal or State regulators to the Contractor resulting from or relating to Contractor's performance of work under this Contract, without regard to liability. The Contractor shall immediately notify DOE of such receipt and shall provide copies or originals of such documents as soon as possible thereafter. The allowability of the costs associated with fines and penalties shall be governed by provisions of this contract. The Contractor shall have plenary authority to allocate any fines and penalties among its subcontractors based on criteria developed by Contractor and applied in Contractor's sole discretion. The Contractor shall indemnify and hold harmless DOE and its employees,

officers, agents from any costs, claims (including third-party claims for damage to persons or property), demands, fines or penalties, including reasonable legal costs, resulting from any failure of the Contractor to comply with applicable permit or regulatory requirements, or resulting from any obligations DOE may incur as a result of signing defective or non-conforming permit applications or submittals prepared by or under the direction of Contractor.

H. Negotiations

DOE may in its discretion choose to be in charge of, and direct, all negotiations with regulatory agencies regarding permits, fines, penalties, and any other proposed notice, notice, administrative order, and any similar type of notice as described in paragraph G above. As directed or required by DOE, the Contractor shall participate in negotiations with regulatory agencies; however, the Contractor shall not make any commitments or offers to regulators purporting to bind or binding the Government in any form or fashion, including monetary obligations, without receiving written authorization or concurrence from the Contracting Officer or his/her authorized representative prior to making such offers/commitments. Failure to obtain such advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.

I. Termination, Expiration, Permit Transfer

In the event of expiration or termination of this Contract, DOE may require the Contractor to take all necessary steps to transfer on an allowable cost basis some or all environmental permits held by the Contractor. DOE will assume responsibility for such permits, with the approval of the regulating agency, and the Contractor shall be relieved of all liability and responsibility to the extent that such liability and responsibility results from the acts or omissions of a successor Contractor, DOE, or their agents, representatives, or assigns. The Contractor shall remain liable for all unresolved costs, claims, demands, fines and penalties, including reasonable legal costs, arising prior to the date such permits are transferred to another party. Contractor shall not be liable for any such claims occurring after formal transfer unless said claims result from Contractor's action or inaction that occurred prior to transfer.

J. Miscellaneous

The Contractor shall accept assignment or transfer of permits pertaining to matters under this Contract currently held by DOE and its existing Contractor. The Contractor may submit for DOE's consideration, requests for alternate review, comment, or signature schedules for environmental permit applications or other regulatory materials covered by

this clause. Any such schedule revision shall be effective only upon written approval from the Contracting Officer.

H.9 EARNED VALUE MANAGEMENT SYSTEM

- A. In the performance of this contract, the Contractor shall use an earned value management system (EVMS) that is recognized as meeting the best business practice guidelines provided in ANSI/EIA-748 Standard, Earned Value Management System.
- B. The Contractor agrees to provide access to all pertinent records and data requested by the Contracting Officer or duly authorized representative. Access is to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the criteria referenced in paragraph A of this clause.
- C. The Contractor shall require subcontractors to comply with the requirements of this clause for applicable work scope.

H.10 EMERGENCY CLAUSE

- A. The RL Manager or designee shall have sole discretion to determine when an emergency situation exists at the Hanford Site, except for RPP facilities, affecting site personnel, the public health, safety, the environment, or security. The Manager, Office of River Protection (ORP), or designee has the discretion to determine whether an emergency situation exists under the Waste Treatment and Immobilization Plant contract and other ORP contract areas of work that might affect RL workers. In the event that either the RL or ORP Manager or designee determines such an emergency exists, the RL Manager or designee will have the authority to direct any and all activities of the Contractor and subcontractors necessary to resolve the emergency situation. The RL Manager or designee may direct the activities of the Contractor and subcontractors throughout the duration of the emergency.
- B. The Contractor shall include this clause in all subcontracts at any tier for work performed at the Hanford Site.

H.11 SHUTDOWN AUTHORIZATION

- A. In the event of a specific imminent environmental, health, or safety hazard, identified by facility line management, DOE Facility Representatives, operators, or facility health and safety personnel overseeing facility operations, the individual or group identifying the specific imminent hazard situation should immediately take actions to eliminate or mitigate the hazard. This shall be accomplished by directing the operator/implementer of the activity or process causing the imminent hazard to shutdown the activity or the facility or by initiating emergency response actions or other actions to protect the health

and safety of the workers and the public and to protect DOE facilities and the environment. (DOE designated Facility Representatives provide technical oversight of operations to help line management ensure that the facilities are operated in a safe, healthful, and environmentally acceptable manner in accordance with DOE Orders and other requirements. As such, they have “Stop Work” and “Shutdown Authorization” authority.)

In the event an imminent environmental, health, or safety hazard is identified, the individual or group that identified the hazard should coordinate with an appropriate Contractor official, who will direct as needed, broader shutdown actions or other actions, as required. Such mitigating actions should subsequently be coordinated with the RL Manager, the facility/site DOE management, the RL Contracting Officer and the facility/site Contractor management. The shutdown direction should be promptly confirmed in writing from the cognizant Contracting Officer.

This authority is in addition to the contract clause entitled “Stop-Work Order – Alternate I.”

- B. In the event of a non-imminent environmental, health, or safety hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or by independent oversight organizations, the individual or group identifying the potential environmental, health or safety hazard may recommend corrective action or facility shutdown. However, the recommendation must be coordinated with the Contractor management at the facility, the responsible DOE manager, and the RL Manager. Any written direction to shutdown operations will be issued in coordination with the Contracting Officer.
- C. After shutdown, an operation or facility may become operational only after receiving written authorization from the RL Manager, or his delegated authority, in coordination with the Contracting Officer.
- D. The Contractor shall provide in its purchasing system, required under the contract clause entitled “Subcontracts (Cost Reimbursement and Letter Contracts),” for policies, practices, and procedures for the flowdown of appropriate requirements of this clause to subcontractors performing work on-site at a DOE-owned or -leased facility. Such subcontracts shall provide for the right to stop work under the conditions described herein.

H.12 SHIPMENT NOTIFICATION

- A. The Contractor and /or Subcontractors shall notify Energy Northwest seven (7) days in advance (1) of any movement of “common” explosives over 1,800 pounds excluding small arms ammunitions or classified shipments within five (5) miles of Energy

Northwest and/or, (2) of any railroad shipment from/to Hanford north of the rail spur to the Fast Flux Test Facility.

- B. For Radioactive Placard Shipments, the Contractor shall notify the State of Oregon Department of Energy, ATTN: Oregon/Hanford Transport Safety Analyst, for any shipment through Oregon.

H.13 OPTIONAL SERVICES

The Government may, at its option and during performance of this contract, unilaterally add any or all of the work scope identified in Section C.8 of this contract currently being performed by, CHG, or Bechtel Hanford Inc. (BHI). An equitable adjustment shall be negotiated for any work appropriately authorized and performed as a result of exercise of any portion of this option.

The addition of such added workscope, if any, shall be subject to the requirements of FAR 52.243.1, Changes - Fixed Price, or FAR 52.243.2, Changes - Cost Reimbursement, depending on contract type.

H.14 WITHDRAWAL OF WORK

- A. The Government may, at its option and during the performance of this contract unilaterally have any of the work contemplated by Section C, Statement of Work, of this contract performed by either another Contractor or to have the work performed by Government employees.
- B. Work may be withdrawn; (1) in order for the Government to conduct pilot programs; (2) if the Contractor's estimated cost of the work is considered unreasonable; (3) for less than satisfactory performance by the Contractor; or (4) for any other reason deemed by the Contracting Officer to be in the best interests of the Government.
- C. If the withdrawn work has been authorized under an annual Work Authorization Directive, the work shall be terminated in accordance with the procedures in the contract clause entitled "Termination (Cost-Reimbursement)."
- D. If any work is withdrawn by the Contracting Officer, the Contractor agrees to fully cooperate with the new performing entity and to provide whatever support is required.

H.15 USE OF DOE FACILITIES

The Contractor may conduct programs of local community assistance to mitigate adverse impacts of closure or reconfiguration of DOE facilities. Such programs may provide for the lease or transfer of DOE property at less than fair market value in accordance with the Hall

Amendment (Public Law 103-160, Sections 3154 and 3155). Any lease or transfer of DOE property under this program must be prior-approved in writing by the Contracting Officer.

H.16 RESERVED

H.17 SUBCONTRACTS CONSENT AND CONTRACT CLAUSE FLOW DOWN REQUIREMENTS

- A. Prior to the placement of subcontracts and in accordance with the contract clause entitled “Subcontracts, the Contractor shall ensure the following:
- (1) The subcontracts contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts. Particular attention should be directed to the potential flow down applicability of the clauses entitled “Utilization of Small Business Concerns “ and “Small Business Subcontracting Plan” contained in PART II, Section I, of the contract;
 - (2) Any applicable subcontractor Certificate of Current Cost or Pricing Data (see FAR Part 15) and subcontractor Representations and Certifications are completed (see the document referenced in the contract clause entitled “Representations and Certifications”); and
 - (3) Any required prior notice and description of the subcontract is given to the Contracting Officer, and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.
- B. The Contractor shall also obtain and furnish to the Contracting Officer either an Organizational Conflict of Interest (OCI) Disclosure Statement or Representation form in accordance with DEAR952.209-72, “Disclosure or representation,” from all subcontractors to be used under this contract to perform the types of work identified in DEAR 909.507-1. No work shall be performed by the subcontractor until the Contracting Officer has cleared the subcontractor for OCI, if required.
- C. The Contractor shall ensure that all cost-reimbursable type subcontracts placed for a total amount which exceeds \$5 million shall have incentive provisions based on performance measurements, criteria, and success factors.

- D. In compliance with the Government's initiative of "Streamlining Procurement Through Electronic Commerce," and presenting a "singleface" to industry, the Contractor shall strive to implement, within available funding, an Electronic Commerce System that will generate a paperless, automated, integrated procurement/payment system. This system shall, to the maximum practicable extent, subject to DOE approval, allow for electronic request for quotations, quotations, purchase orders, electronic invoices, and remittance advices; full integration between the procurement, receiving, inventory control and accounting systems; and accounting system programs that compare invoices, receipts, and orders and automatically issue electronic funds transfer payments.

H.18 SUBCONTRACTOR ENVIRONMENT, SAFETY, QUALITY, AND HEALTH REQUIREMENTS

- (a) The U.S. Department of Energy (DOE) and the Contractor are committed to zero accidents on the PHMC work. To that end the Contractor is required to manage the performance of subcontractors to ensure acceptable Environmental, Safety, Quality, and Health (ESQ&H) performance. The level of ESQ&H requirements should be commensurate with the risk and complexity of work subcontracted. The ESQ&H requirements shall be flowed-down to the lowest tier subcontractor performing work on the Hanford site commensurate with the risk and complexity of the work. The Contractor shall have a method to evaluate and manage subcontractor's ESQ&H performance. Such a method for subcontractor evaluation will include elements for pre-qualification, periodic onsite evaluation, and the ability to stop work, or penalize subcontractor for failure to meet contractual ESQ&H performance. These elements may include evaluation of the subcontractor's injury statistics, workers compensation data, regulatory fines and penalties, written ESQ&H programs, past work references, onsite evaluations, etc., as appropriate for the work to be performed on the Hanford site.

H.19 ASSIGNMENT OF SUBCONTRACTS

The Government reserves the right to direct the Contractor to assign to the Government or another Contractor any subcontract awarded under this contract, including lower-tier subcontracts. This clause is required as a flow-down clause in all subcontracts.

H.20 INFORMATION

A. Management of Information Resources

The Contractor shall design and implement Information Resources Management (IRM) capabilities for the Hanford Site in accordance with the Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources.

B. Release of Information

- (1) Working with the RL Office of Intergovernmental, Public & Institutional Affairs (IPI) and the Records Manager when appropriate, the Contractor shall be responsible for developing, planning, and coordinating proactive approaches to timely dissemination of information regarding DOE unclassified activities onsite and offsite.
- (2) The Contractor shall be responsible for following DOE guidelines and/or procedures for all oral, written and audio/visual information material prepared for public use, including technical information.

C. Unclassified, Controlled, Nuclear Information (UCNI)

Documents originated by the Contractor or furnished by the Government to the Contractor, in connection with this contract, may contain Unclassified, Controlled, Nuclear Information as determined pursuant to Section 148 of the Atomic Energy Act of 1954, as amended. The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE regulations and directives and the contract clauses entitled "Security" and "Classification/Declassification."

D. Confidentiality of Information

To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:

- (1) Information which, at the time of receipt by the Contractor, is in the public domain;
- (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
- (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
- (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.

The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access to such information, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.

The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this subparagraph D., with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.

The Contractor agrees that upon request by DOE, it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.

- E. The Government reserves the right to require the Contractor to include this clause or a modified version of this clause in any subcontract as directed in writing by the Contracting Officer.

H.21 PRIVACY ACT SYSTEMS OF RECORDS

- A. The Contractor shall design, develop, or adopt the following systems of records on individuals to accomplish an agency function pursuant to the contract clause entitled "Privacy Act."

<u>System No.</u>	<u>Title</u>
DOE-5	Personnel Records of Former Contractor Employees
DOE-11	Emergency Locator Records
DOE-13	Payroll & Locator Records
DOE-14	Report of Compensation
DOE-15	Payroll & Pay-Related Data for Employees of Terminated Contractors
DOE-23	Richland Property System
DOE-28	General Training Records
DOE-31	Firearms Qualifications Requirements
DOE-32	Gov't Motor Vehicle Operator Records
DOE-33	Personnel Medical Records
DOE-35	Personnel Radiation Exposure Records

DOE-40	Contractor Employees Insurance Claims
DOE-43	Personnel Security File
DOE-47	Security Investigations
DOE-51	Employee and Visitor Access Control Records
DOE-53	Access Authorization for ADP Equipment
DOE-58	General Correspondence Files

- B. The above list shall be revised from time to time by mutual agreement between the Contractor and the Contracting Officer as necessary to keep it current. A formal modification to the contract is not required to incorporate these revisions; but, the revisions become effective upon mutual agreement of the parties. The mutually agreed upon revisions shall have the same effect as if actually listed above for the purpose of satisfying the listing requirement contained in paragraph (a)(1) of the contract clause entitled "Privacy Act." The revisions will be formally incorporated per the next annual contract update modification, unless added sooner by the Contracting Officer.

H.22 PAYMENTS AND ADVANCES

A. Payment of Fee Amounts Earned

Fee payments shall be made by direct payment or withdrawn from funds advanced or available under this contract, as determined by the Contracting Officer. The Contracting Officer may offset against any such fee payment the amounts owed to the Government by the Contractor, including any amounts owed for disallowed costs under this contract. No fee payments may be withdrawn against the payments cleared financing arrangement without prior written approval of the Contracting Officer.

B. Payments on Account of Allowable Costs

Allowable costs, determined in accordance with the cost principles in Subpart 31.2 of the Federal Acquisition Regulation (FAR) as supplemented by Subpart 931.2 of the Department of Energy Acquisition Regulations (DEAR), and other items as approved in writing by the Contracting Officer, shall be made from advances of Government funds limited by Section B.2. "Obligation of Funds." When pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefore shall be excluded from costs for payment purposes until such costs are paid. If pension contribution are paid on a quarterly or more frequent basis, accrual therefor may be included in costs for payment purposes, provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from cost for payment purposes until payment has been made.

C. Final FH Incurred Cost Submittal

Proposed charge-out rates for the following fiscal year will be submitted each year in accordance with direction provided in the Baseline Updating Guidance issued in the spring of each year pertaining to the subsequent execution year and outyears.

- (1) The Contractor shall submit an adequate final incurred cost submittal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.
 - (a) The submitted cost shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates incurred costs as promptly as practical after receipt of the Contractor's proposal.
 - (b) Failure by the parties to agree on final annual incurred cost shall be a dispute within the meaning of the Disputes clause.
- (2) Quick-closeout procedures. Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

D. Special Financial Institution Account Use

All advances of Government funds shall be withdrawn pursuant to a payments cleared financing arrangement in favor of the bank or, at the option of the Government, shall be made by direct payment or any other payment mechanism to the Contractor, and shall be deposited only in the Special Demand Deposit Account referred to in the Special Bank Account Agreement, which is incorporated into this contract included in Section J. No part of the funds in the Special Demand Deposit Account shall be (1) commingled with any funds of the Contractor or (2) used for a purpose other than that of making payments for costs allowable and, if approved, fees earned under this contract or payments for other items specifically approved in writing by the Contracting Officer. If the Contracting Officer determines that the balance of such Special Demand Deposit Account exceeds the Contractor's current needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.

E. Title to Funds Advanced

Title to the unexpended balance of any funds advanced and of any Special Demand Deposit Account established pursuant to this clause shall remain in the Government and

be superior to any claim or lien of the bank of deposit or others. It is understood that an advance to the Contractor hereunder is not a loan to the Contractor, and will not require the payment of interest by the Contractor, and that the Contractor acquires no right, title or interest in or to such advance other than the right to make expenditures therefrom, as provided in this clause.

F. Certification and Penalties

The Contractor shall prepare and submit a monthly voucher for the total of costs incurred and accrued for the period covered by the voucher. It is anticipated that this will be a monthly submission unless otherwise agreed to by the Contracting Officer. Vouchers must be formatted in a manner approved by the Contracting Officer. Accompanying the annual final indirect incurred cost submission the Contractor shall provide a certification subject to the penalty provisions for unallowable costs as stated in the contract clause, "52.242-3, Penalties for Unallowable Costs."

G. Financial Settlement

The Government shall promptly pay to the Contractor the unpaid balance of allowable costs and earned fee upon termination of the work, expiration of the term of the contract, or completion of the work and its acceptance by the Government after (1) compliance by the Contractor with DOE's patent clearance requirements, and (2) the furnishing by the Contractor of:

- (1) An assignment of the Contractor's rights to any refunds, rebates, allowances, accounts receivable, collections accruing to the Contractor in connection with the work under this contract, or other credits applicable to allowable costs under this contract;
- (2) A closing financial statement;
- (3) The accounting for Government-owned property required by the clause entitled "Property;" and
- (4) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:
 - (a) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the Contractor;
 - (b) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance

of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer promptly, but not more than one (1) year after the Contractor's right of action first accrues. In addition, the Contractor should provide prompt notice to the Contracting Officer of all potential claims under this clause, whether in litigation or not (see also the contract clause entitled, "Insurance-Litigation and Claims");

- (c) Claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents; and
- (d) Claims recognizable under the clause entitled, Nuclear Hazards Indemnity Agreement.

In arriving at the amount due the Contractor under this clause, there shall be deducted, (1) any claim which the Government may have against the Contractor in connection with this contract, and (2) deductions due under the term of this contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the Special Demand Deposit Account may be applied to the amount due and any balance shall be returned to the Government forthwith.

H. Claims

Claims for credit against funds advanced for payment shall be accompanied by such supporting documents and justification, as the Contracting Officer shall prescribe.

I. Discounts

The Contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions unless the Contracting Officer finds that action is not in the best interest of the Government.

J. Collections

All collections accruing to the Contractor in connection with the work under this contract, except for the Contractor's fee and royalties in accordance with this contract, shall be Government property and shall be processed and accounted for in accordance with applicable requirements imposed by the Contracting Officer and, to the extent consistent

with those requirements, shall be deposited in the Special Demand Deposit Account or otherwise made available for payment of allowable costs under this contract, unless otherwise directed by the Contracting Officer.

K. Direct Payment of Charges

The Government reserves the right, upon ten days written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned, all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the Contractor therefor.

H.23 ASSIGNMENT OF DOE PRIME CONTRACTS

During the period of performance of this contract it may become necessary for the U.S. Department of Energy (DOE) to transfer and assign (and Contractor agrees to accept) existing or future DOE prime contracts supporting site work to this contract. The transfer of these prime contracts will be for administration purposes and in effect the transferred contracts will become subcontracts to this contract. Details of the transfer will be determined by the DOE prior to the transfer. Any recommendations and/or suggestions on individual transfers should be submitted in writing to the Contracting Officer prior to the transfer or assignment.

H.24 RESERVED

H.25 ADVANCE UNDERSTANDING ON PERSONNEL COSTS, POLICIES AND PROCEDURES

The DOE has reached an Advance Understanding with the Contractor on certain personnel costs, related expenses, policies, and procedures. These costs are those associated with personnel policies and procedures which the Contractor will apply to work under this contract. The personnel policies and procedures require DOE's advance review and written approval from the Contracting Officer. Any exceptions noted in the Contracting Officer's written approval will govern the Contractor's application of the personnel policies and procedures under this contract. The Advance Understanding will be part of this contract and included in Section J.

DOE approval is also required for the annual salary paid to the person designated as the Contractor's top management official identified in the contract clause entitled "Key Personnel." The annual salary excludes bonus or incentive compensation pay, as it is currently not an allowable cost under this contract. In addition, the top management official's annual salary shall act as a cap on the allowable annual salary costs for other officials designated as key personnel and identified in the contract clause entitled "Key Personnel." Annual salary for other key personnel also excludes bonuses or incentive compensation pay, as it is currently not an allowable cost under the contract. In addition,

any salary increase for other key personnel must be within the contractor's established salary range for the position and in accordance with the Contractor's salary increase distribution program. Any compensation for other key personnel exceeding these limitations shall be considered unallowable unless specifically pre-approved by the Contracting Officer.

H.26 RESERVED

H.27 RESERVED

H.28 LABOR RELATIONS

- A. The Contractor will respect the rights of employees (1) to organize, form, join, or assist labor organizations; bargain collectively through representatives of the employees own choosing; and engage in other protected concerted activities for the purpose of collective bargaining, or (2) to refrain from such activities.
- B. To the extent required by law, the Contractor shall give notice to any lawfully designated representative of its employees for purposes of collective bargaining and, upon proper request, bargain to good faith impasses or agreement, or otherwise satisfy applicable bargaining obligations.
- C. The Contractor shall promptly advise the Contracting Officer of, and provide all appropriate documentation regarding, any labor relations developments at the prime or subcontract level that involve or appear likely to involve:
 - (1) Possible strike situations affecting the facility;
 - (2) Referral to the Energy Labor-Management Relations Panel;
 - (3) The National Labor Relations Board at any level;
 - (4) Recourse to procedures under the Labor-Management Act of 1947, as amended, or any other Federal or state labor law; or
 - (5) Any grievance that may reasonably be assumed to be arbitrated under a Collective Bargaining Agreement.
- D. Cost of wages and fringe benefits, to employees represented by collective bargaining units, not in excess of those provided in the collective bargaining agreements shall be allowable. The costs associated with grievance processing and settlements, arbitration, and arbitration awards shall be allowable in accordance with the provisions of the contract clause entitled "Insurance - Litigation and Claims." All other costs and expenses

incurred pursuant to the provision of the collective bargaining agreements and revisions thereto are allowable costs hereunder.

H.29 DETERMINATION OF APPROPRIATE LABOR STANDARDS

DOE shall determine the appropriate labor standards in accordance with the Davis-Bacon Act, which shall apply to work performed under this contract. Where requested by DOE, the Contractor shall provide such information in the form and timeframe required by DOE, as may be necessary for DOE to make such labor standards determinations. The Contractor will then be responsible for ensuring that the appropriate labor standards provisions are included in subcontracts.

H.30 RESERVED

H.31 HANFORD SITE STABILIZATION AGREEMENT

- A. The Site Stabilization Agreement for all construction work for the DOE at the Hanford Site consists of a Basic Agreement dated September 10, 1984, plus an Appendix A. (The Site Stabilization Agreement is available in the DOE Public Reading Room. The Site Stabilization Agreement will be made a part of this contract by reference upon award. The Contractor shall be required to comply with the most current Site Stabilization Agreement, and as modified throughout performance of the contract.)
- B. This clause applies to employees performing work under RL contracts or subcontracts subject to the Davis-Bacon Act, in the classifications set forth in the Site Stabilization Agreement for work performed at the Hanford Site.
- C. Contractors and subcontractors at all tiers who are parties to an agreement(s) for construction work with a Local Union having jurisdiction over RL construction work performed at the Hanford Site, or who are parties to a national labor agreement for such construction work, shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including its Appendix A. Subcontractors at all tiers who have subcontracts with a signatory Contractor or subcontractor shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including its Appendix A.
- D. Contractors and subcontractors at all tiers who are not signatory to the Site Stabilization Agreement and who are not required under paragraph C above to become signatory to the Site Stabilization Agreement shall pay not less and no more than the wages, fringe benefits, and other employee compensation set forth in Appendix A and shall adhere, except as otherwise directed by the Contracting Officer, to the following provisions of the Site Stabilization Agreement:

1. Article VII Employment, Section 2 only
 2. Article XII Non-Signatory Contractor Requirements
 3. Article XIII Hours of Work, Shifts, and Overtime
 4. Article XIV Holidays
 5. Article XV Wage Scales and Fringe Benefits,
Sections 1 & 2 only
 6. Article XVII Payment of Wages-Checking In & Out,
Section 3 only
 7. Article XX General Working Conditions
 8. Article XXI Safety and Health
- E. The Contractor agrees to make no contributions in connection with this contract to Industry Promotion Funds, or similar funds, except with the prior approval of the Contracting Officer.
- F. The obligation of the Contractor and its subcontractors to pay fringe benefits shall be discharged by making payments required by this contract in accordance with the provisions of the amendments to the Davis-Bacon Act contained in the Act of July 2, 1964, (Public Law 88-349-78 Stat. 238-239) and the Department of Labor regulations in implementation thereof (29 CFR, Parts 1,3,5).
- G. The Contracting Officer may direct the Contractor to pay amounts for wages, fringe benefits, and other employee compensation if the Site Stabilization Agreement, including its Appendix A, is modified by the involved parties.
- H. (1) In the event of failure to comply with paragraphs C, D, E, F, and G above, or failure to perform any of the obligations imposed upon the Contractor and its subcontractors, the Contracting Officer may withhold any payments due to the Contractor and may terminate the contract for default.
- (2) The rights and remedies of the Government provided in this paragraph (1) above shall not be exclusive and are in addition to any other rights and remedies of the Government provided by law or under this contract.
- I. The requirements of this paragraph are in addition to, and shall not relieve the Contractor of any obligation imposed by other clauses of this contract, including those entitled

“Davis-Bacon Act,” “Contract Work Hours and Safety Standards Act-Overtime Compensation,” “Payrolls and Basic Records,” “Compliance with Copeland Act Requirements,” “Withholding of Funds,” and “Contract Termination--Debarment.”

- J. The Contractor agrees to maintain its bid or proposal records showing rates and amounts used for computing wages and other compensation, and its payroll and personnel records during the course of work subject to this paragraph, and to preserve such records for a period of 3 years thereafter for all employees performing such work. Such records will contain the name, address, social security number of each such employee, correct classification, rate of pay, daily and weekly number of hours worked, and dates and hours of the day within which work was performed, deductions made, and amounts for wages and other compensation covered by paragraphs C, D, E, F, and G. of this contract clause. The Contractor agrees to make these records available for inspection by the Contracting Officer and will permit employee interviews during working hours on the job.
- K. The Contractor agrees to insert this clause, including this paragraph K, in all subcontracts for the performance of work subject to the Davis-Bacon Act.

H.32 RESERVED

H.33 PERFORMANCE OBJECTIVES, MEASURES, EXPECTATIONS, AND FEE DISTRIBUTION

A. Establishment of Baseline Performance Incentives

The Government will develop performance objectives, measures, and expectations along with related fee distribution for the contract period. The performance incentives and fee distribution will reflect the priority and importance that DOE places on accomplishment of key results. The Contractor may propose additional performance objectives, measures, and expectations which may be negotiated prior to placement in the contract. The final determination of incentives and related fee distribution will be made solely by DOE, after discussion with the Contractor, and DOE may unilaterally add any and all of them in a modification to this contract. However, if the Contractor disagrees with the established objectives, measures, expectations, and related fee distribution, the Contractor may appeal the determination to the RL Manager. However, the final decision shall be at the unilateral discretion of the RL Manager. The objectives, measures, expectations, and related fee distribution will be set forth in Section J, Appendix D, of this contract.

B. Performance Incentive

After determination of objectives, measures, expectations, and related fee distribution, the Contractor and DOE shall execute Performance Incentives and incorporate them into Section J, Appendix D, for each incentive. The Performance Incentives set forth the

agreed upon criteria/specification for acceptable performance of such objectives, measures, and expectations. The criteria/specifications set forth in the Performance Incentives should be mutually agreed to by both DOE and the Contractor. In the event the parties cannot mutually agree, the final decision shall be made at the unilateral discretion of the RL Manager.

C. Interference

In the event the Contractor believes the DOE has interfered with its ability to meet specific performance incentives, it may present evidence to support this position along with a proposed adjustment to the RL Manager. The RL Manager will make a determination and provide a copy of that determination to the Contractor. The determination will be at the unilateral discretion of the RL Manager.

This Contract contains Performance Based Incentives (PBI) that provide the opportunity for the Contractor to earn fee. A change of conditions, circumstances, funding, or assumptions which impact Contractor's ability to meet a PBI shall constitute a change under Clause I.74 and will be processed to subsections (b) through (e) thereof in a timely manner, when such changes are beyond the Contractor's reasonable control. For the purpose of changes hereunder the reference to "fixed-fee" in Clause I.74 shall be considered to be a reference to PBI/fee.

D. Positive and Negative Incentives

Performance objectives, measures, and/or expectations have fee directly assigned to their accomplishment, or have a negative deduction from earned fee for failure to accomplish, as described within the Performance Based Incentive. If the negative level of performance is not surpassed, no fee will be paid for these objectives, measures and/or expectations and further negative deduction will be made from other fees earned. In no event, however, would the aggregate of all negative deductions exceed the amount of fee earned for the given Fiscal Year (FY). Furthermore, for each FY the aggregate of all negative deductions actually invoked shall not exceed 20% of the total available fee in a given year for all Performance Incentives. Nothing within this clause is intended to limit the Government's rights pursuant to the Conditional Payment of Fee Clause.

E. Accomplishment of Incentives

In order for any expectation to be considered performed, not only must it meet the criteria of the Performance Incentive, but the work must be accomplished within the approved cost and schedule thresholds specified in the PI, as modified through the Change Control process.

F. Fee Re-Allocation due to Cancellation or Changes

If, for any reason, DOE cancels an objective, measure, and/or expectation, the fee attached to that objective, measure, and/or expectation shall be reallocated to a new objective, measure, and/or expectation or to existing other objectives, measures, and/or expectations or to both new and existing objectives, measures, and/or expectations. The decision as to the new objective, measure and/or expectation and/or the decision as to which existing objectives, measures, and/or expectations fee may be reallocated, is at DOE's unilateral discretion.

G. Provisional and Progress Fee Payment

Upon successful completion of a provisional or progress incentive payment event as defined in one of the specific performance incentives set forth in Section J, Appendix D, the contractor shall request and receive Contracting Officer approval prior to drawing down fee from the payments cleared financing arrangement. The Contractor's request for payment shall occur no more frequently than once per month. If the Contractor fails to successfully complete the subsequent event upon which the provisional payment of fee is conditioned, the contractor shall refund to the government the provisional payments it has received that are associated with the missed performance based event. The Contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with the contract clause entitled "Interest." Fee from the comprehensive, annual, and multi-year PBIs, which is unearned for failure to meet PBI requirements, is forfeited and shall not be returned to the unallocated fee pool.

H. Superstretch Incentives

Performance incentives addressing superstretch goals should be developed prior to the beginning of the fiscal year, but may be developed and implemented during the term of the contract. The Contractor shall coordinate with the RL Manager or designee to identify superstretch goals. The fee for accomplishment of superstretch goals will be paid from a share of the cost of the accelerated work and will be outside the fee pool identified in the clause entitled "Estimated Cost and Fee." The accelerated workscope must be identified and authorized by a Baseline Change Request (BCR) approved by the RL Manager. The BCR shall document the scope, cost, and funding source necessary to incorporate the accelerated workscope into the baseline. The superstretch costs will be identified in the BCR and will include fee at the rate of up to 20% of the revised BCWS of the accelerated workscope. A copy of the performance incentive shall be attached to the BCR.

The BCR will be processed through the FH and RL integrated Change Control Boards. When the work is complete, a package documenting completion of the work will be prepared and submitted to DOE for approval. Approval of the completion package by DOE will authorize payment to the Contractor of the fee earned.

The superstretch performance incentives must be performed in accordance with the cost and schedule criteria identified in the performance incentive. The cost savings must be realized through efficiencies and/or workscope deletions and not deferrals.

The use of superstretch incentives is at the sole discretion of the RL Manager.

I. Multi-Year Incentives

A multi-year performance based incentive is any PBI in which the requirements are established in one fiscal year but the final completion date extends into a future fiscal year.

H.34 SEGREGATION OF COSTS

- A. Whenever the contract contains both fixed-price and cost-type efforts, the Contractor shall maintain separate accounts for each unique contract type by Contract Line Item Number (CLIN), by task order, or other suitable accounting procedure of all incurred segregable costs of work allocable to the work effort directly related to each arrangement.
- B. Whenever the contract contains a provision for an incentive for a portion of the work effort, the Contractor shall maintain separate accounts, by CLIN, work authorization, task order, or other suitable accounting procedure of all incurred segregable costs of work related to the incentive.
- C. The Contractor shall maintain all such accounts, required pursuant to the paragraphs above, in accordance with the clauses "Ownership of Records" and "Accounts, Records and Inspection, but, in no case, for a period of less than 3 years following the Government's determination of the applicable incentive fee.

H.35 PROVISIONAL PAYMENT OF FEE FOR COMPREHENSIVE AND ANNUAL PBI'S

- A. Provisional payments of fee may be paid before the final determination of fee. Such provisional payments may be made at the discretion of the Contracting Officer on a monthly basis up to a maximum amount for the fiscal year not-to-exceed 70 percent of the performance fee pool.

- B. DOE agrees to pay to the Contractor, at the discretion of the Contracting Officer, on a provisional basis an amount up to 10% of the annual performance fee pool in each of the first two calendar months of each Fiscal Year and 5% in each calendar month thereafter.
- C. The final fee determination will be made at the unilateral discretion of the Contracting Officer or RL Manager, as appropriate, in accordance with the fee clauses of this contract. In the event overpayment results from the payment of fee on a provisional basis, the Contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with the contract clause entitled "Interest."
- D. Fee associated with multi-year incentives is not subject to this clause.

H.36 SHARING EARNED FEES WITH EMPLOYEES

The Contractor as set forth herein will continue a merit based employee fee sharing program to motivate and recognize employees and improve performance. The fee sharing process will be described in a site wide procedure. For each year in which the Contractor earns fee in excess of 60% of the fee available for annual performance based incentives, the comprehensive incentive, and progress payments based on completion dates in the multiyear incentives, the Contractor will set aside 5% of its total earned fee for each fiscal year to be provided to its employees as stipulated in the site wide procedure.

H.37 RESERVED

H.38 RESERVED

H.39 CONTRACTOR CONTROLLED INSURANCE PROGRAM

- A. The Contractor shall procure, at no cost to the DOE, a Contractor Controlled Insurance program (CCIP), as set forth in the Contractor's proposal dated March 25, 1996 to the extent available on a commercially reasonable basis.

The Contractor support the DOE's efforts to improve their insurance program by the collection of insurance claim statistics and information. They will assist the DOE by complying with the insurance reporting requirements as defined by DOE Order 350.1 Change 1.

(No changes to the unredacted text).

This clause does not apply to liabilities covered by the Nuclear Hazards Indemnity Agreement.

H.40 INDIRECT COST ALLOCATIONS

For the base contract and any extensions thereof, allocations of home office and corporate office general and administrative (G&A) expenses are allowable only to the extent provided for under this Clause. In recognition of the nature of work performed under this Contract, the Contractor may propose a special allocation of residual home office expenses in accordance with FAR 99.403-40(c)(3). Such proposal will be processed in accordance with Cost Accounting Standards requirements and DOE policy. Formal approval of a special allocation of home office residual expenses by the Contracting Officer would, accordingly, make such allocable costs allowable under this Contract up to a maximum annual amount of \$1,500,000.

In the absence of an approved special allocation, as discussed above, limits are hereby placed on the Government liability under this Contract for the Contractor's corporate and home office allocation. The amount of \$500,000 per year represents the annual ceiling amount that may be reimbursed under this Contract. The Contractor may bill provisionally by prorating the appropriate ceiling amount on an annualized basis.

H.41 AUTHORIZATION AGREEMENTS

In accordance with the Integrated Environment, Safety and Health Management System Description, Authorization Agreements (AAs) will be developed, mutually agreed to and executed between FH and DOE-RL. The purpose of an AA is to serve as a mechanism whereby the U.S. Department of Energy, Richland Operations Office (RL) and Fluor Hanford, Inc., (FH) jointly clarify and agree to terms and the key conditions for conducting work safely and efficiently in a facility. The AAs will be developed and maintained for all facilities as deemed necessary by DOE RL. The AAs will not alter any terms and conditions of the Project Hanford Management Contract (PHMC) and do not impose on FH any liabilities, fines, or penalties not already imposed under the terms and conditions of the PHMC and current statutes, rules, regulations and ordinances.

H.42 RESERVED

H.43 LOBBYING RESTRICTION (ENERGY & WATER DEVELOPMENT APPROPRIATIONS ACT, 1999)

The Contractor or Awardee agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulations.

H.44 LOBBYING RESTRICTION (DEPARTMENT OF INTERIOR & RELATED AGENCIES APPROPRIATIONS ACT, 1999)

The Contractor or Awardee agrees that none of the funds obligated on this award shall be made available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulations.

H.45 TRAVEL RESTRICTIONS

- A. For contractor travel expenses incurred on or after October 1, 2000 and before October 1, 2001 a ceiling limitation of \$1,620,000 shall apply to all reimbursements made for contractor travel expenses, funded by the Energy and Water Development Appropriations Act under this contract. Expended funds which exceed the established ceiling will be unallowable unless otherwise authorized by the contracting officer.
- B. Some travel costs are exempt from the ceiling, examples are:
 - 1. Travel performed under work for others agreements;
 - 2. Travel of subcontractors;
 - 3. Travel of non-DOE users to participate in experiments at DOE user facilities;
 - 4. Travel costs of travel management centers;
 - 5. Travel costs fund by other appropriations;
 - 6. Relocation costs;
 - 7. Costs of workshops/seminars (other than travel costs), such as, rental of meeting rooms, public address equipment, speakers' fees;
 - 8. Registration costs of training classes.
 - 9. Travel expenses within the Laboratory Directed Research and Development program; and
 - 10. Travel associated with recruitment.
- C. Notwithstanding any other provisions of the contract or the source of funding, the contractor further agrees that none of the funds obligated under the contract may be used to reimburse employee travel costs incurred on or after October 1, 2000 and before October 1, 2001 which exceed the rate and amounts that apply to federal employees under subchapter I of Chapter 57 of Title 5, United States Code. To the extent that this contract provides elsewhere for the reimbursement of employee travel costs which exceed the rates and amounts that apply to federal employees under subchapter I of Chapter 57 of Title 5, United States Code. Costs which exceed these rates and amount will be unallowable. This restriction is in addition to those prescribed elsewhere in statute or regulation.

- D. Costs incurred for lodging, meals, and incidental expenses are considered reasonable and allowable to the extent that they do not exceed the maximum per diem rates in effect at the time of travel as set forth in:
- (i) Federal Travel Regulations (FTR) for travel within the 48 states;
 - (ii) Joint Travel Regulations (JTR) for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States; or
 - (iii) Standardized Regulations (SR) for travel allowances in foreign areas.
- E. Subparagraph (C) does not incorporate the regulations cited above in their entirety. Only the coverages in the referenced regulations addressing the maximum per diem rates, the definitions of lodging, meals, and incidental expenses, and special or unusual situations are applicable to contractor travel.
- F. Airfare costs in excess of the lowest customary standard, coach, or equivalent airfare offered during normal business hours are unallowable except when such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler, or are not reasonably available to meet mission requirements. However, in order for airfare costs in excess of the above standard airfare to be allowable, the applicable condition(s) set forth above must be documented and justified.

H.46 OCCUPATIONAL HEALTH RECORDS AND RADIATION EXPOSURE RECORDS

The Contract Clause entitled "Access to and Ownership of Records" is implemented as follows with respect to occupational health records and radiation exposure records:

All occupational health records generated during the performance of Hanford-related activities will be maintained by the Hanford Environmental Health Foundation (HEHF) and are the property of DOE. All radiation exposure records generated during the performance of Hanford-related activities will be maintained by the Pacific Northwest National Laboratory (PNNL) and are the property of DOE.

H.47 WORKERS' COMPENSATION

Pursuant to State of Washington Revised Code (RCW) Title 51, the Department of Energy (DOE), Richland Operations Office (RL) is a group self-insurer for purposes of workers' compensation coverage. The coverage afforded by the workers' compensation statutes shall, for

performance of work under this contract, including work of pre-selected subcontractors, be subject to the following:

- E. The terms of a Memorandum of Understanding (MOU) with the Washington Department of Labor and Industries (L&I) by which DOE has agreed to perform all functions required of self-insurers in the State of Washington. While this MOU is in effect, the Contractor is not required to pay for workers' compensation coverage or benefits except as otherwise provided below or as directed by the Contracting Officer.
- F. The Contractor shall submit to DOE (or other party as designated by the Contracting Officer for transmittal to the L & I) such payroll records required by the workers' compensation laws of the State of Washington.
- G. The Contractor shall submit to DOE (or other party as designated by the Contracting Officer), for transmittal to L&I, the accident reports provided for by RCW Title 51, Section 51.28.010, or any other documentation requested by DOE or the L&I pursuant to the workers' compensation laws of the State of Washington.
- H. The Contractor shall take such action, and only such action, as DOE (or other party as designated by the Contracting Officer) requests in connection with any accident reports, including assistance in the investigation and disposition of any claim thereunder and, subject to the direction and control of DOE, the conduct of litigation in the Contractor's own name in connection therewith.
- I. The Contractor shall be responsible for making all payments and submitting all reports required by RCW Title 51, Section 51.32.073.

H.48 AGREEMENT REGARDING PROPOSED CLAUSES

This contract modification includes clauses which have not been finalized through the formal rule making process. The Department of Energy anticipates promulgation of formal clauses, or revisions to the clauses, contained in this contract modification prior to, or shortly after, the effective date of this modification. Subsequent to such promulgation, the Contractor agrees to negotiate, in good faith, the substitution of these revised clauses for the corresponding existing contract Clauses. Absent material changes to the above clauses in the Final Rule(s) promulgating the clauses which would substantially increase the contractor's financial or corporate risk, the Contractor agrees to accept the final Departmental versions of these clauses.

- A. Section I clauses identified with a publication date of "(Month and Year TBE)" are clauses contained in the March 13, 2000 Federal Register Proposed Rule.

- B. Section I clauses identified with a publication date of “(XXX 2000)” are intellectual property clauses which are being prepared by the Department for release to the public as either a Proposed Rule or an Interim Final Rule.
- C. Section I. Conditional Payment of Fee Clause

H.49 ALTERNATIVE DISPUTE RESOLUTION

- A. The U.S. Department of Energy (DOE) and the Contractor both recognize that methods for fair and efficient resolution of significant disputes are essential to the successful and timely achievement of critical milestones and completion of all Contract requirements. Accordingly, the parties agree to:
 - (1) Participate in a partnering workshop to be conducted by an experienced professional jointly agreed upon by the parties, and,
 - (2) Jointly select a “standing neutral” within 30 days of completion of the partnering workshop. The “standing neutral” will be available to help resolve disputes as they arise. Such “standing neutral” can be an individual, a board comprised of three independent experts, or a company with specific expertise in the Contract area. If a “standing neutral” cannot be agreed upon, the DOE Office of Dispute Resolution will make a selection. The specific ADR processes and procedures, as well as the processes for selecting the “standing neutral” will be determined at the partnering workshop.
- B. The parties agree the following provision may be invoked for significant disputes upon mutual agreement of the RL Manager, and the President of FHI:
 - (1) DOE and the Contractor shall use their best efforts to informally resolve any dispute, claim, question, or disagreement by consulting and negotiating with each other in good faith, recognizing their mutual interests, and attempting to reach a just and equitable solution satisfactory to both parties. If an agreement cannot be reached through informal negotiations after 30 days, then such disagreement shall be referred to the “standing neutral,” pursuant to the procedures jointly developed in the partnering workshop.
 - (2) The “standing neutral” will not render a decision, but will assist the parties in reaching a mutually satisfactory agreement. In the event the parties are unable after 30 days to reach such an agreement either party may request, and the neutral will render, a non-binding advisory opinion. Such opinion shall not be admissible in evidence in any subsequent proceedings.

C. Formal Complaint

If the disputed issue is eligible to be brought pursuant to the Disputes Clause and is not resolved through the "Standing neutral" process, no later than 30 days after the completion of said process or a determination that said process will not be invoked, either party may proceed under the Section I Clause, *Disputes*.

H.50 CLAUSES RELATED TO DOE ORDER 350.1, CHANGE 1

The Department of Energy anticipates promulgation of clauses and amendment of the Cost Principle at DEAR 970.3102-05-6 related to Contractor Human Resource Management Programs, that are currently found in DOE Order 350.1, Change 1. Subsequent to such promulgation, the Contractor agrees to incorporate all required clauses and negotiate the cost and resource impacts needed to implement these clauses.